

To: Mayor Chuck Reed
From: Government Reform & Ethics Subcommittee
Mayor Reed Transition Committee
Date: January 8, 2007
Subject: Final Recommendations

Committee Members:

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Recommendations:

Lobbyist Reform

San José needs to regulate lobbyist activities more closely and with higher scrutiny. The committee recommends:

- A change to the definition of a "Lobbyist" closer to the definition used by the State of California which is "a person paid for the purpose of affecting legislation." This definition is not complete but is far easier to understand than the current definition used by the city today.
- Increase the revolving door standard from 1 year to 4 years.
- Prohibit lobbyists from donating to campaigns or from bundling contributions from their clients to candidates.
- Require elected officials to disclose any meeting with a lobbyist and the project that was discussed during that meeting on their calendars and from the dais before a council meeting when the project is scheduled for a vote.
- Prohibit contingent fees for lobbyists. Fees for lobbyist services should not be tied to a specific outcome. If the city cannot regulate the fees then the lobbyist must disclose to any council member or staff what their "success fees" would be at the time of their meeting.

- Reduce the number of hours to qualify as a lobbyist to 3 hours a year. Currently an individual must register as a lobbyist if they spend more than 20 hours in a three month period meeting with council members or their staff, members of the planning commission, Redevelopment Agency Board, Appeals Hearing Board, Civil Service Commission, the City Manager or Executive Director of the Agency and their Deputy's, or any City representative to any joint powers authority to which the city is a party.
- The majority of the committee felt: All city employees must report being lobbied and should also be restricted from lobbying for four years.

Campaign Finance Reform

The Election Commission should audit the past Mayoral and Council elections to see if current laws need to be strengthened or if better enforcement of existing laws would resolve many of the problems. The committee recommends:

- If money is spent in San Jose the committee making the expenditure must file their report in San Jose with the City Clerk's Office within 24 hours of making the expenditure.
- Re-initiate the contribution limits on Independent Expenditures (the City Attorney's office is currently appealing the court case that threw out the contribution limits).
- Increase penalties for violations dramatically, possibly as much as the expenditure.
- Increase the budget and staff of the Elections Committee and allow the Elections Committee to use the District Attorney's office to investigate election complaints.
- Penalize the consultant as well as the committee for failure to follow Independent Expenditure Laws.
- Disallow the coordination of candidate committees and party organizations in non-partisan races.
- Require Independent Expenditure committees to disclose on written material a disclaimer that says "this piece was paid for by an independent committee with funds that were raised in amounts greater than the limits imposed on campaign committees." The same disclaimer would have to be read on all radio and television commercials.
- Prohibit consultants from working for a candidate committee and an Independent Expenditure Committee supporting the same candidate.
- The committee also recommends the city staff looks into the Instant Run Off System to see if this method could save money.

Global View

San José needs a global view; all projects should be viewed in the context of the effect on the entire city. The committee recommends:

- Projects that would require a change of the General Plan should all be reviewed at the same time and only once a year.
- Require 1:1 mitigation – in lieu fee
- Inventory the conversion of industrial land to housing for the past 24 years.
- Accelerate annexations of county land beginning with commercial and industrial property.
- The goal of city planning should be a balance of industrial, commercial, and housing to achieve our city goals including our fiscal health and that best serve the needs of the city.

Additional Reforms

- All projects, activities, and events seeking public funding must include a measurable social or economic benefit to the city.
- A cost benefit analysis must be submitted for all projects, activities, and events seeking public funding. An after action report/analysis must be performed to determine whether or not the city's interests were met. When a public subsidy is sought, council members must provide a list of those lobbyists and political donors/supporters that they spoke with relative to the project/program.
- A permanent committee on ethics should be established and report to the Mayor and Council three times a year regarding the progress on ethics reforms.

The Reed Reforms

The committee reviewed the proposal and has made the following edits and additions. Some of the proposed reforms are currently under review by the Sunshine Task Force, the City Attorneys Office, or in court, those were noted and the committee made no recommendation pending the review by those organizations.

CHARTER CHANGES

1. Ask the voters to revise the Charter to make it easier to recall the Mayor and Council members for violation of the Charter or the Oath of Office.

OATH OF OFFICE CHANGES

2. Revise the Oath of Office to include a pledge to follow the Charter.

3. Revise the Oath of Office to include a pledge to put service above self and an honor code. Ask staff to define honor code. **Sunshine Task Force (STF) approved**

SUNSHINE ORDINANCE CHANGES

4. Adopt a Sunshine Ordinance that will make it easier for the public to know their rights and easier for the public access information. **STF approved**

5. Prohibit late staff memos so that the public can have a better opportunity to respond to proposals and fully participate in the debate except in the case of an emergency. **STF approved**

6. Require the Mayor and Council members to disclose material facts before the Council takes action. **STF approved**

7. Require the Mayor and Council members to disclose any political favors or other consideration they are to get in exchange for their votes. **STF approved**

8. Disclose all offers made to city unions for pay or benefit increases when the offers are made. – **City Manager said we cannot do this.**

9. Disclose the names of people serving on advisory committees. **STF approved**

10. Make broader disclosures of what the Council does in closed sessions. **STF approved**

11. Prohibit closed door meetings for city task forces, commissions and committees. – Unless prohibited by law. **Get clarification from City Attorney**

12. Post notices for meetings of committees, boards, commissions and advisory bodies online in one place. **STF approved**

13. Disclose the salary range of all city employees by classification. **Court Case Pending**

14. Disclose records of city employee disciplinary actions to the extent allowed by state law. **City Attorney reviewing**

15. Disclose actions taken on complaints received about fraud and abuse. **Committee needs clarification**

16. Disclose appraisals used in the purchase or condemnation of property after the deal is done. **STF approved**

17. Record all Council closed session meetings electronically and make the information available after the reason for secrecy has passed. **STF approved**

18. Store archive copies of email in a form that will allow for easier public review. **City Attorney reviewing**

19. Plug loopholes in the campaign financing ordinance that make it possible to contribute unlimited amounts of money in the form of paid campaign workers. – **Disclosure of all campaign workers as in-kind contributions and those donations should be subject to the same limits as all other donations.**

20. Plug loopholes in the lobbyist ordinance that allow many lobbyists to avoid public disclosure of what they are doing. – **Any lobbyist meeting with a council member or staff must have a member of the professional staff in attendance.**

21. Disclose the calendars of the Mayor and Council members. – Direct staff to look at web based calendar programs to make this easy for the members to update and people to access.

CONDUCT CHANGES

22. Require staff for Mayor and Council members to sign a Code of Conduct.

23. Prohibit Mayor and Councilmember interference with the decisions of City Boards and Commissions. – **Minutes, reports, and recommendations cannot be edited or altered.**

24. Prohibit Mayor and Councilmember interference with the bidding and RFP process.

25. Create a certified mandatory training program for Mayoral and Councilmember staff to ensure they are fully aware of laws and ethical standards so they can help their bosses follow the law.

26. Hold regular public hearings on ethical issues happening in other jurisdictions so we can learn from our mistakes and the mistakes of others.

27. Revise our Ethics Code to specify that it is unethical for the Mayor and Council members not to follow Council adopted policies without approval of the Council.

28. Prohibit the Mayor, Council members, and their staffs from directing revisions to draft staff reports without full disclosure. **Any suggestions for changes must be disclosed.**

29. **The Council will incorporate a policy governance model to ensure the Mayor and Council are responsible for the governance of the City and that the professional staff is responsible for the implementation of the policy direction of the council.** (New reform approved by consensus of the committee)

CHANGE TO A COMMUNITY BASED BUDGETING PROCESS

30. Start the budget process with a survey of the public in early January.

31. Hold a Conference on Priorities with neighborhood associations in late January.

32. Have Council hearings in February on New Initiatives and Unfunded Programs (NIUPS) and have the Council specify their spending priorities.

33. Report the results of items 29-31 in the Mayor's March Budget Message.

OTHER CHANGES

34. Hold monthly hearings on the status of Council's directives to staff.

35. Expand the City Auditor's staff to allow for more performance audits.

36. Change the gift rule from \$50 to \$0

37. The City needs to develop Whistle Blower protections for City Employees that prohibits retribution and firing.

Background

The committee was formed at the request of Mayor Elect Chuck Reed and tasked to review three specific issues, Lobbyist Reform, Campaign Finance Reform, and Land Use Reform. The committee also examined the Reed Reforms, a document produced by Chuck Reed during the past election cycle and a central piece of his campaign platform. Except where noted otherwise the following recommendations are unanimously endorsed by the committee.